

AMENDED IN ASSEMBLY APRIL 14, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

No. 669

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Introduced by Assembly Member Daly

February 25, 2015

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An act to amend Section 1182.12 of the Labor Code, relating to minimum wage.

### LEGISLATIVE COUNSEL'S DIGEST

AB 669, as amended, Daly. Minimum wage: *qualifying* tipped employees.

Existing law requires that, on and after July 1, 2014, the minimum wage for all industries be not less than \$9 per hour. Existing law further requires that on and after January 1, 2016, the minimum wage for all industries be not less than \$10 per hour.

This bill would establish the minimum wage for a qualifying tipped employee, on and after January 1, 2016, at ~~\$9~~ \$10 per hour. The bill would define “qualifying tipped employee” to mean an employee who regularly receives income from wages at a rate equal to at least ~~\$15 per hour~~, *150% of the minimum wage*, as described. The bill would define “wages” for these purposes to mean all remuneration for services performed by an employee for his or her employer, including tips received by an employee in the course of his or her employment.

The bill would require an employer, if in any month a qualifying tipped employee receives income from wages at a rate of less than ~~\$15 per hour~~, *150% of the minimum wage, as described*, to pay the *qualifying tipped* employee an amount equal to the difference, if any, between the minimum wage per hour for qualifying tipped employees *and the state* minimum wage per hour for all other employees, multiplied by the total

number of hours worked by the *qualifying tipped* employee during that month. ~~This bill would supersede local minimum wage laws unless the local law contains specified provisions.~~ *The bill would require an employer, if it elects to pay its qualifying tipped employees the minimum wage for qualifying tipped employees rather than the minimum wage for all other employees, to pay all other employees a minimum wage equal to 110% of the minimum wage for all other employees or 110% of the applicable local minimum wage, whichever is greater. The bill would also exempt an employer from paying a qualifying tipped employee a minimum wage established by a local ordinance that is greater than the minimum wage required for all other employees if the qualifying tipped employee is guaranteed an hourly rate of compensation by his or her employer, in each pay period, from wages that equal or exceed 150% of the minimum wage established by that local ordinance.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1182.12 of the Labor Code is amended  
2 to read:  
3 1182.12. (a) Notwithstanding any other provision of this part,  
4 on and after July 1, 2014, the minimum wage for all industries  
5 shall be not less than nine dollars (\$9) per hour, and on and after  
6 January 1, 2016, the minimum wage for all industries shall be not  
7 less than ten dollars (\$10) per hour.  
8 (b) Notwithstanding subdivision (a), on and after January 1,  
9 2016, the minimum wage for a qualifying tipped employee shall  
10 be ~~nine~~ *ten* dollars ~~(\$9)~~ *(\$10)* per hour.  
11 (c) “Qualifying tipped employee” means an employee who  
12 regularly receives income from wages at a rate equal to at least  
13 ~~fifteen dollars (\$15) per hour.~~ *150 percent of the minimum wage*  
14 *required by subdivision (a).*  
15 (d) *A qualifying tipped employee regularly receives income at*  
16 *an hourly rate equal to at least 150 percent of the minimum wage*  
17 *required by subdivision (a) if the qualifying tipped employee’s*  
18 *total wages divided by total hours worked equals or exceeds 150*  
19 *percent of the minimum wage required by subdivision (a) in each*  
20 *of the two pay periods preceding the current pay period.*  
21 ~~(d)~~

1 (e) If, in any month, a qualifying tipped employee receives  
2 income at a rate of less than ~~fifteen dollars (\$15) per hour, 150~~  
3 ~~percent of the minimum wage required by subdivision (a), the~~  
4 employer shall pay the *qualifying tipped* employee an amount  
5 equal to the difference, if any, between the minimum wage required  
6 by subdivision (b) and the ~~state~~ minimum wage for all other  
7 employees, as required by subdivision (a), multiplied by the total  
8 number of hours worked by the *qualifying tipped* employee during  
9 that month.

10 (f) *If an employer elects to pay its qualifying tipped employees*  
11 *the minimum wage in subdivision (b) rather than the minimum*  
12 *wage in subdivision (a), the employer shall pay all other employees*  
13 *a minimum wage equal to 110 percent of the minimum wage in*  
14 *subdivision (a) or 110 percent of the applicable local minimum*  
15 *wage, whichever is greater.*

16 (g) *A local ordinance establishing a minimum wage in excess*  
17 *of the amount required by subdivision (a) shall not apply to a*  
18 *qualifying tipped employee guaranteed an hourly rate of*  
19 *compensation by his or her employer; in each pay period, from*  
20 *wages that equal or exceed 150 percent of the amount required*  
21 *by that local ordinance.*

22 ~~(e)~~

23 (h) For purposes of this section, the term “wages” shall have  
24 the meaning set forth in Section 13009 of the Unemployment  
25 Insurance Code.

26 ~~(f) This section shall preempt local ordinances setting forth a~~  
27 ~~minimum wage in excess of the minimum wage established by~~  
28 ~~this subdivision, to the extent the ordinance is applicable to~~  
29 ~~qualifying tipped employees, unless the ordinance specifically~~  
30 ~~references this section and states the local jurisdiction’s intent to~~  
31 ~~establish a higher minimum wage for qualifying tipped employees.~~